IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.8.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.27954 of 2007

M/s.E.Merck Ltd.,
23/16, Spur Tank Road,
Chetpet, Chennai - 600 031 .. Petitioner

vs.

The Commercial Tax Officer,
Egmore-II Assessment Circle,
Chetpet, Chennai - 600 031 .. Respondent

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent above named in his proceedings TNGST:0541026/2003-04, and quash the order therein, dated 17.7.2007, and further to direct the respondent to issue blank Form 'F' declarations as requested by the petitioner.

For petitioner : Mr.K.J.Chandran

For respondent : Mr.R.Mahadevan
Additional Government Pleader

O R D E R

1. Mr.R.Mahadevan, the learned Additional Government Pleader, takes notice for the respondent.

2. With the consent of the learned counsels appearing on either side, the writ petition is taken up for final disposal.

3. Heard Mr.K.J.Chandran, the learned counsel appearing for the petitioner as well as Mr.R.Mahadevan, the learned Additional Government Pleader, for the respondent.

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4. It is submitted that the petitioner is a registered dealer under the provisions of The Central Sales Tax Act, 1956, and is an assessee on the files of the respondent. The petitioner has its Head Office at Bangalore in the State of Karnataka. During the assessment year 2003-04, the petitioner's Head Office in Bangalore stock-transferred goods to its branch at Chennai.

5. With reference to the stock transfers made to the Chennai office, the petitioner had issued forms 'F' declarations bearing S.Nos.KO.685056 to KO.685067. The said Forms had been lost in transit. Hence, the petitioner had requested the respondent to issue duplicate Form 'F' in lieu of the lost Forms 'F'. However, the respondent, by his communication Ref.TNGST 0541026/2003-04, dated 17.7.2007, had refused to grant the request of the petitioner stating that since the petitioner had already issued Form 'F' declarations and they were lost in transit to Bangalore, the cause of action arose only at Bangalore and that there is a possibility of the lost declaration Forms being misused and in such a case, the liability of the petitioner cannot be estimated.

6. The learned counsel appearing for the petitioner had relied on the Rules of The Central Sales Tax (Registration and Turnover) Rules, 1957, to show that the duplicate Forms could be issued by the authorities concerned on request. On a perusal of Rules 12(3) and 12(9) of the said Rules, it is seen that certain powers are vested with the authorities concerned to issue Form 'F' as prayed for by the petitioner.

7. Mr.R.Mahadevan, the learned Additional Government Pleader, appearing for the respondent, has not refuted the claims of the petitioner. However, it was pointed out by the the learned Additional Government Pleader, appearing for the respondent, that the duplicate Forms would be issued to the petitioner on their complying with the conditions specified in Rule 12(3) of The Central Sales Tax (Registration and Turnover) Rules, 1957, which reads as follows:

> "(3) Where a declaration Form furnished by the dealer purchasing the goods or the Certificate furnished by the Government has been lost, the dealer selling the goods may demand from the dealer who purchased the goods or, as the case may be, from the Government, who purchased the goods, a duplicate of such Form or Certificate, and the same shall be furnished with the following declaration recorded in red ink and signed by the dealer or authorised officer of the Government, as the case may be, on all the three portions of such Form of Certificate:

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I hereby declare that this is the duplicate of the declaration Form/Certificate No..... signed on ..... and issued to ..... who is a registered dealer of ..... (State) and whose Registration Certificate number is ..... ."

8. In such circumstances, the impugned order of the respondent, TNGST 0541026/2003-04, dated 17.7.2007, is set aside and the respondent is directed to issue the duplicate Form 'F' to the petitioner in accordance with The Central Sales Tax (Registration and Turnover) Rules, 1957, within a period of two weeks from the date of receipt of a copy of this order on condition that the petitioner furnishes an indemnity bond to the satisfaction of the respondent.

With the above directions, the writ petition is disposed of. No costs.

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Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

The Commercial Tax Officer,
Egmore-II Assessment Circle,
Chetpet, Chennai - 600 031

+1 cc to Mr.K.J.Chandran, Advocate Sr.No.53909.

+1 cc to Special Government Pleader - Taxes Sr.No.53948.

RS(CO)
dcp/21.9

W.P.No.27954 of 2007

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